

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

CLYDE DAVID CARTER,
Plaintiff,
v.
B. COX,
Defendant

No. 2:20-CV-1322-KJM-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983.

This action is stayed pending resolution of related criminal proceedings in the Lassen County Superior Court. See ECF No. 20. Pursuant to the Court's order staying these proceedings, Defendant was required to file periodic status reports concerning the state court proceedings. See id. Defendant's most recent status report indicates that a discovery hearing is scheduled to take place in state court on December 8, 2023. See ECF No. 34. Defendant will be required to file further reports advising the Court as to the status of proceedings in state court. Pending further order of this Court, this action remains stayed.

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1 During the pendency of the stay of these proceedings, which remains in effect,
2 Defendant filed a motion to dismiss for lack of prosecution based on Plaintiff's failure to file a
3 notice of change of address following mail sent by Defendant's counsel being returned as
4 undeliverable. See ECF No. 31. Because Defendant's motion was filed during the pendency of
5 the stay, it was improperly filed and will be stricken as such.

6 As to Plaintiff's failure to notify counsel of a change of address, the Court's docket
7 also reflects that mail sent by the Court has been returned as undeliverable since February 21,
8 2023. While it is Plaintiff's obligation to notify the Court and all parties of a change of address,
9 and while it appears Plaintiff has failed to do so, it also appears, as reflected in the various status
10 reports filed by Defendant, that Plaintiff may have been transferred to and from various
11 institutions to attend hearings in the Lassen County Superior Court. In the interest of justice, the
12 Court will direct defense counsel to make best efforts to ascertain Plaintiff's last known address
13 and to advise the Court of same in the next status report.

14 Accordingly, IT IS HEREBY ORDERED as follows:

15 1. Pursuant to the Court's prior order, this action remains STAYED.

16 2. Defendant's motion to dismiss, ECF No. 31, improperly filed during the
17 pendency of the stay of these proceedings, is STRICKEN.

18 3. Defendant shall file a report on the status of Lassen County Superior Court
19 proceedings within 30 days of the date of this order, such status report to include a declaration
20 from defense counsel as to efforts to ascertain Plaintiff's last known address.

21 4. Defendant shall file a further status report every 60 days thereafter until
22 such time as the Court lifts the stay of proceedings.

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24 Dated: January 23, 2024



25 DENNIS M. COTA
26 UNITED STATES MAGISTRATE JUDGE
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